

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In re:	)	Chapter 7
	)	BKY Case No. 04-44461-RJK
Gwendolyn Ann Barton and	)	
Neal Arthur Barton,	)	<b><u>VERIFIED NOTICE OF HEARING</u></b>
	)	<b><u>AND MOTION OBJECTING TO</u></b>
Debtor(s)	)	<b><u>CLAIMED EXEMPT PROPERTY</u></b>

TO: The United States Bankruptcy Court, the United States Trustee, the debtor, the debtor's attorney, and all parties who requested notice under Bankruptcy Rule 2002:

1. Julia A. Christians, Trustee herein, moves the Court for the relief requested below, and gives notice of hearing herewith.

2. The Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005, and Local Rule 1071-1. This motion is filed pursuant to Bankruptcy Rule 9014 and Local Rules 9013-1 through 9013-5. This proceeding arises under 11 U.S.C. § 522 and Local Rule 4003-1(a).

3. The Court will hold a hearing on this objection on November 3, 2004, at 9:30 in Courtroom No. 8 West, U.S. Courthouse, 300 South Fourth Street, Minneapolis, MN 55415, or as soon thereafter as counsel can be heard.

4. Any entity opposing the motion under Local Rule 9013-2 is required to file and serve a response, including a memorandum of facts and law and any opposing affidavit, not later than October 29, 2004, which is three days before the time set for the hearing (excluding Saturdays, Sundays, and holidays), or filed and served by mail not later than October 25, 2004, which is seven days before the time set for the hearing (excluding Saturdays, Sundays and holidays). **If no**

**response is timely served and filed, the Court may grant the relief requested without a hearing.**

5. The undersigned trustee hereby objects to the debtor's claim that the following property is exempt under the applicable exemption statute: The debtor's AIG VALIC tax sheltered annuity plan, listed by Debtors at a value of \$2,302.

6. The objection is made for the following reason:

Debtors claimed the annuity exempt under MSA §550.37(24) to the extent of \$2,302. Debtors provided the statement attached hereto as Exhibit A to identify the nature of the annuity, but nothing contained therein shows that the annuity meets the standards of the exemption statute upon which Debtors are relying as being payable on account of illness, disability, death, age, or length or service. *See*, Minn. Stat. §550.37, subd. 24. There is no exemption for annuities that are simply investment accounts.

Dated: October 12, 2004

/e/ Julia A. Christians  
Julia A. Christians, Trustee  
One Financial Plaza, Suite 2500  
120 South Sixth Street  
Minneapolis, MN 55402  
(612) 338-5815

### **VERIFICATION**

Julia A. Christians, being duly sworn, says that she is the Chapter 7 Trustee in this action, that she has read this Verified Notice and Objection To Claimed Exempt Property and that it is true of her own knowledge, to the best of her information.

/e/ Julia A. Christians  
Julia A. Christians

# Account Statement

For the Period: 04/01/2004 - 06/30/2004



► **CORY R. DAVERN**  
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BARTON, GWENDOLYN A  
4019 MEADOWBROOK LN  
MINNEAPOLIS MN 55426-4608



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## ► Portfolio Snapshot

Ending value 06/30/04: **\$2,302.10**

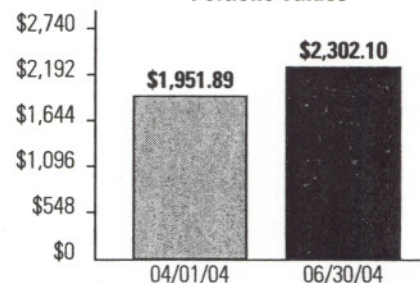
### Activity at a Glance

<b>Beginning value 04/01/04</b>	<b>\$1,951.89</b>
Your contributions	\$180.00
Employer contributions	\$169.22
Net change in value	\$0.99

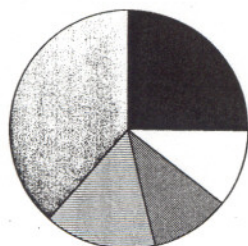
**Ending value 06/30/04** **\$2,302.10**

*This section provides a view of your portfolio's beginning and ending balance. With the bar chart, you can monitor at a glance your total portfolio's progress for the given period.*

### Portfolio Values



### Asset Allocation



25.20%	Large Cap
10.39%	Mid Cap
10.76%	Small Cap
15.24%	Global & Intl Equity
0%	Specialty
0%	Hybrid
38.41%	Fixed Income

### Contributions and Balances

Plan type	Contributions for the period 04/01/04 - 06/30/04	Ending value 06/30/04
<b>INDEPENDENT SCHOOL DISTRICT #271-BLOOMINGTON</b>		
Tax Sheltered Annuity	\$349.22	<b>\$2,302.10</b>

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# Account Statement

BARTON, GWENDOLYN A

2 of 7

04/01/2004 - 06/30/2004

## ► Investment Summary

Funds by asset class	Beginning value 04/01/04	Total additions	Investment transfers	Total reductions	Net change in value	Ending value 06/30/04	% of total
<b>Large Cap</b>	<b>\$493.47</b>	<b>\$87.34</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>-\$0.69</b>	<b>\$580.12</b>	<b>25.20%</b>
American Century Ultra	\$233.32	\$41.93	\$0.00	\$0.00	\$3.30	\$278.55	12.10%
Lg Cap Val(State Street)	\$260.15	\$45.41	\$0.00	\$0.00	-\$3.99	\$301.57	13.10%
<b>Mid Cap</b>	<b>\$200.97</b>	<b>\$34.92</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$3.29</b>	<b>\$239.18</b>	<b>10.39%</b>
Sit Mid Cap Growth	\$200.97	\$34.92	\$0.00	\$0.00	\$3.29	\$239.18	10.39%
<b>Small Cap</b>	<b>\$202.65</b>	<b>\$34.91</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$10.16</b>	<b>\$247.72</b>	<b>10.76%</b>
Ariel	\$202.65	\$34.91	\$0.00	\$0.00	\$10.16	\$247.72	10.76%
<b>Global &amp; Intl Equity</b>	<b>\$300.89</b>	<b>\$52.38</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>-\$2.35</b>	<b>\$350.92</b>	<b>15.24%</b>
Templeton Global Ast Allo	\$300.89	\$52.38	\$0.00	\$0.00	-\$2.35	\$350.92	15.24%
<b>Fixed Income</b>	<b>\$753.91</b>	<b>\$139.67</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>-\$9.42</b>	<b>\$884.16</b>	<b>38.41%</b>
Fixed Account Plus	\$368.73	\$69.83	\$0.00	\$0.00	\$3.36	\$441.92	19.20%
High Yield Bond	\$95.53	\$17.46	\$0.00	\$0.00	\$0.94	\$113.93	4.95%
Intl Government Bond	\$289.65	\$52.38	\$0.00	\$0.00	-\$13.72	\$328.31	14.26%
<b>Totals</b>	<b>\$1,951.89</b>	<b>\$349.22</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.99</b>	<b>\$2,302.10</b>	<b>100%</b>

## ► Account Summary

Plan type	Account description	Account number
<b>INDEPENDENT SCHOOL DISTRICT #271-BLOOMINGTON</b>		
Tax Sheltered Annuity	Employee Deferrals	7261672
	Employer Contributions	7261682

## ► Account Details

### ACCOUNT 7261672

INDEPENDENT SCHOOL DISTRICT #271-BLOOMINGTON

Tax Sheltered Annuity

EMPLOYEE DEFERRALS - CONTRACT DATE: 06/25/2003

#### Activity Details

	For the period 04/01/04 - 06/30/04	Since inception
<b>Beginning value 04/01/04</b>	<b>\$1,411.89</b>	
Your contributions	\$180.00	\$1,490.00
Net change in value	-\$1.19	
<b>Ending value 06/30/04</b>	<b>\$1,590.70</b>	
Surrender value 06/30/04	\$1,526.47	

You are 100% vested in this account.

#### Investments

Funds by asset class	Ending value 06/30/04	% of total	Future contributions
<b>Large Cap</b>	<b>\$401.12</b>	<b>25.22%</b>	<b>25%</b>
American Century Ultra [31]	\$192.37	12.09%	12%
Lg Cap Val(State Street) [40]	\$208.75	13.13%	13%
<b>Mid Cap</b>	<b>\$165.58</b>	<b>10.41%</b>	<b>10%</b>
Sit Mid Cap Growth [67]	\$165.58	10.41%	10%
<b>Small Cap</b>	<b>\$171.68</b>	<b>10.79%</b>	<b>10%</b>
Ariel [68]	\$171.68	10.79%	10%
<b>Global &amp; Intl Equity</b>	<b>\$243.30</b>	<b>15.29%</b>	<b>15%</b>
Templeton Global Ast Allo [19]	\$243.30	15.29%	15%

section continues >

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Neal Arthur Barton, )  
 )  
Debtors. )

UNSWORN CERTIFICATE OF SERVICE

I, Sarah L. Fortin, declare under penalty of perjury that on October 12, 2004, I mailed copies of the attached **Notice Of Hearing And Motion Objecting to Claimed Exempt Property; and proposed Order** by first class mail postage prepaid to each entity named below at the address stated below for each entity:

Office of the United States Trustee  
1015 U.S. Courthouse  
300 South Fourth Street  
Minneapolis, MN 55415

A. Rhett Taber  
Olive Taber & Owens PA  
5270 W. 84<sup>th</sup> Street  
Suite 300  
Bloomington, MN 55437-1384

Gwendolyn Ann Barton  
4019 Meadowbrook Lane  
St. Louis Park, MN 55426

The Ramsey Law Firm PC  
Attn: Household Automotive Finance  
Corporation Department  
Account: 500001434908  
PO Box 201347  
Arlington, TX 76006

Executed on: October 12, 2004

/s/ Sarah L. Fortin  
Sarah L. Fortin, Legal Secretary  
Lapp, Libra, Thomson, Stoebner &  
Pusch, Chartered  
120 South Sixth Street, Suite 2500  
Minneapolis, MN 55402  
612/338-5815



UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In re:	)	Chapter 7
	)	BKY Case No. 04-44461-RJK
Gwendolyn Ann Barton and	)	
Neal Arthur Barton,	)	
	)	
Debtor(s)	)	

**ORDER RESPECTING OBJECTION TO CLAIM OF EXEMPTION**

The objection of the trustee to the debtors' claim that the following property is exempt under MSA §550.37(24): AIG VALIC tax sheltered annuity, came duly on for hearing on November 3, 2004. Appearances were as noted in the record.

Upon said objection and for cause shown, and upon all the files, records, and proceedings herein,

IT IS ORDERED,

That the debtor's claim of exemption for the following property is hereby disallowed: AIG VALIC tax sheltered annuity.

Dated:

\_\_\_\_\_  
The Honorable Robert J. Kressel  
United States Bankruptcy Judge